

**Introduced by Senator Harman**

February 26, 2009

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An act to amend Section 3291 of the Civil Code, and to amend Section 685.010 of the Code of Civil Procedure, relating to judgments.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 393, as introduced, Harman. Judgments: interest.

The California Constitution provides that the rate of interest on a judgment rendered in any court of this state shall be set by the Legislature at not more than 10% per annum. Existing law provides that interest accrues at the rate of 10% per annum on the principal amount of a money judgment remaining unsatisfied.

This bill would provide that interest accrues on the principal amount of a money judgment remaining unsatisfied at a rate that is the lesser of 10% per annum or an amount equal to the prime rate determined and published by the Board of Governors of the Federal Reserve System, as specified, plus 2% on the day the judgment is entered.

Under existing law, if the plaintiff makes an offer that the defendant does not accept prior to trial or within 30 days, whichever occurs first, and the plaintiff obtains a more favorable judgment, the judgment shall bear interest at the legal rate of 10% per annum calculated from the date of the plaintiff's first offer that is exceeded by the judgment.

This bill would provide, if the plaintiff makes an offer that the defendant does not accept prior to trial or within 30 days, whichever occurs first, and the plaintiff obtains a more favorable judgment, that the portion of the judgment awarded as compensatory damages for personal injury shall bear interest at a rate, calculated from the date of the plaintiff's first offer that is exceeded by the judgment, that is the lesser of 10% per annum or an amount equal to the prime rate

determined and published by the Board of Governors of the Federal Reserve System, as specified, plus 2% on the day the judgment is entered.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3291 of the Civil Code is amended to  
2 read:

3 3291. (a) In any action brought to recover damages for  
4 personal injury sustained by any person resulting from or  
5 occasioned by the tort of any other person, corporation, association,  
6 or partnership, whether by negligence or by willful intent of the  
7 other person, corporation, association, or partnership, and whether  
8 the injury was fatal or otherwise, it is lawful for the plaintiff in the  
9 complaint to claim interest on the damages alleged as provided in  
10 this section.

11 If

12 (b) If the plaintiff makes an offer pursuant to Section 998 of the  
13 Code of Civil Procedure ~~which~~ that the defendant does not accept  
14 prior to trial or within 30 days, whichever occurs first, and the  
15 plaintiff obtains a more favorable judgment, the *portion of the*  
16 *judgment awarded as compensatory damages for personal injury*  
17 *shall bear interest at the legal rate of 10 percent per annum a rate*  
18 *that is the lesser of the following*, calculated from the date of the  
19 plaintiff's first offer pursuant to Section 998 of the Code of Civil  
20 Procedure ~~which~~ that is exceeded by the judgment, and interest  
21 shall accrue until the ~~satisfaction of judgment.~~ *award of judgment:*

22 (1) *Ten percent per annum.*

23 (2) *An amount equal to the prime rate determined by the Board*  
24 *of Governors of the Federal Reserve System, as published in*  
25 *Statistical Release H.15, or any publication that may supersede*  
26 *it, plus 2 percent on the day the judgment is entered.*

27 This

28 (c) *This* section shall not apply to a public entity, or to a public  
29 employee for an act or omission within the scope of employment;  
30 ~~and neither.~~ *Neither* the public entity nor the public employee shall  
31 be liable, directly or indirectly, to any person for any interest  
32 imposed by this section.

1 SEC. 2. Section 685.010 of the Code of Civil Procedure is  
2 amended to read:

3 685.010. (a) Interest accrues ~~at the rate of 10 percent per~~  
4 ~~annum~~ on the principal amount of a money judgment remaining  
5 unsatisfied: *at a rate that is the lesser of the following:*

6 (1) *Ten percent per annum.*

7 (2) *An amount equal to the prime rate determined by the Board*  
8 *of Governors of the Federal Reserve System, as published in*  
9 *Statistical Release H.15, or any publication that may supersede*  
10 *it, plus 2 percent on the day the judgment is entered.*

11 (b) The Legislature reserves the right to change the rate of  
12 interest provided in subdivision (a) at any time to a *lower* rate ~~of~~  
13 ~~less than 10 percent per annum~~, regardless of the date of entry of  
14 the judgment or the date any obligation upon which the judgment  
15 is based was incurred. ~~A change in the rate of interest may be made~~  
16 ~~applicable only to the interest that accrues after the operative date~~  
17 ~~of the statute that changes the rate.~~

18 SEC. 3. This act shall apply to all cases pending on, or filed  
19 on or after, January 1, 2010.